

Remarks

The above Amendments and these Remarks are in reply to the outstanding Office Action. Claims 1-10 are presented herewith for consideration.

Claims 1-10 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 7,028,072 B1 (*Kliger*) in view of U.S. Patent No. 6,055,573 (*Gardenswartz*).

I. Rejection of Claims 1-10 under 35 U.S.C. §103(a)

Claims 1-10 are rejected under 35 U.S.C. §103(a) as being unpatentable over *Kliger* in view of *Gardenswartz*.

In rejecting claims 1-10, the Office Action stated:

Kliger et al. disclose: ...a user identification value (official notice is taken of the old an well known practice of passing a PC identification value along with communications emanating from a user computer)...converting the user identification value to a promotional information (the cookie from the user device is read as an identification value which must contain the ID for the user in order to cause the promotional information (e.g. profile data to be retrieved see col. 5 lines 5-15); transferring, from the associate processing device to the merchant processing device, the promotional information and the purchase information (the profile information at server 230 is read as the agent for the merchant and the cookie associated with the user is read as promotional information which passes from the server 210 to the server 230)...

However, there appears to be no disclosure in *Kliger* et al. for...adding the promotional information, by the associate processing device, to the purchase information responsive to the user identification value...

However, *Gardenswartz* et al. disclose a CID [customer identification] card having the user identification value ...Office Action, pages 2-4. (Emphasis added.)

The Applicant's attorney respectfully disagrees. First, the Office Action, as emphasized above, is using "the cookie" or "PC identification value" as disclosed by *Kliger* as being the claimed "identification value" and also improperly the separately claimed "promotional information." As described below, the Office Action uses still a third contradictory element, a "CID[customer identification]", as being the claimed "identification value."

Second, *Gardenswartz* **teaches away** from claim 1. *Gardenswartz* explicitly discloses **both** "cookies" and "CIDs." See Fig.3 and Col. 8, lines 33-57. The Office Action is improperly picking the "CIDs" as taught by *Gardenswartz* and contradictorily ignoring the teachings of "cookies" that the Office Action has earlier indicated is the claimed "identification value."

Claim 4 depends from claim 1 and therefore is patentable for at least the reasons stated above in regard to claim 1.

Further, claim 4 calls for “the promotional information includes a key value associated with the first merchant.” In rejecting claim 4, the Office Action stated at page 4: “In *Kliger et al.*, an advertisement is read as the key value.” Yet, on page 3 as cited above, the Office Action contradictorily states that the claimed “promotional information” is “profile data to be retrieved.” The Office Action has not indicated with any particularity how or where *Kliger* discloses “profile data” that includes “an advertisement.” The Office Action has not cited with particularity where *Kliger* discloses such “an advertisement.”

Claim 7 depends from claim 1 and therefore is patentable for at least the reasons stated above in regard to claim 1.

Further, claim 7 calls for “obtaining, by a user, a card having the user identification value and a pass code value associated with a purchased product package; and, transferring, from the user processing device to the associate processing device, the pass code value.” The Office Action has not cited with any particularity where the “pass code” is disclosed in *Gardenswartz*.

Claim 8 depends from claims 1 and 7 and therefore is patentable for at least the reasons stated above in regard to claims 1 and 7.

Further, claim 8 calls for “providing a list of merchant links responsive to the user identification value and pass code value.” So not only has the Office Action not identified “a pass code value” in the cited art, the Office Action has not identified where “a list of merchant links” are provided “responsive to the ...pass code value” in the cited art.

Therefore, it is respectfully requested the rejection of claims 1-10 under 35 U.S.C. §103(a) as being unpatentable over *Kliger* in view of *Gardenswartz* be withdrawn.

Based on the above amendments and these remarks, reconsideration of claims 1-10 is respectfully requested.

The Examiner’s prompt attention to this matter is greatly appreciated. Should further questions remain, the Examiner is invited to contact the undersigned attorney by telephone.

The Commissioner is authorized to charge any underpayment or credit any overpayment to Deposit

Account No. 501826 for any matter in connection with this response, including any fee for extension of time, which may be required.

Respectfully submitted,

Date: April 10, 2007

By: /Kirk J. DeNiro/
Kirk J. DeNiro
Reg. No. 35,854

VIERRA MAGEN MARCUS & DENIRO LLP
575 Market Street, Suite 2500
San Francisco, CA 94105
Telephone: (415) 369-9660
Facsimile: (415) 369-9665